

01  
02  
03  
04  
05  
06  
07  
08 UNITED STATES DISTRICT COURT  
09 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

10 CORINNA MOSES,

11 Plaintiff,

Case No. C12-1964-JCC-MAT

12 v.

REPORT AND RECOMMENDATION

13 KING COUNTY, *et al.*,

14 Defendants.

15  
16 This is a civil rights action filed under 42 U.S.C. § 1983. Plaintiff, through counsel,  
17 filed her complaint on November 8, 2012. Plaintiff alleged in her complaint that she had been  
18 denied adequate medical care as she gave birth at the King County Correctional Facility in July  
19 2011, in violation of her rights under the Eighth and Fourteenth Amendments. (Dkt. 1.)  
20 Defendants filed an answer to the complaint and the undersigned thereafter entered an Order  
21 setting pretrial deadlines. (Dkts. 7 and 8.) On March 18, 2013, the parties filed an agreed  
22 motion to stay the proceedings for three months due to the incapacity of plaintiff's medical

01 expert. (Dkt. 12.) The undersigned granted the motion and entered an Order staying the case  
02 until June 21, 2013. (Dkt. 14.)

03 On June 20, 2013, the parties filed a stipulated motion requesting that the case be stayed  
04 for an additional three months due to the continued incapacity of the plaintiff's medical expert.  
05 (Dkt. 16.) The undersigned again granted the motion and entered an Order staying the case  
06 until September 21, 2013. (Dkt. 18.) Pursuant to that Order, plaintiff's counsel was to update  
07 the Court, not later than September 21, 2013, on the medical prognosis of plaintiff's expert  
08 witness and his ability to participate in the case. Plaintiff's counsel failed to submit the  
09 required update and, thus, on October 10, 2013, the undersigned issued an Order directing  
10 plaintiff to show cause not later than October 21, 2013 why the previously entered stay should  
11 not be lifted and a new pretrial schedule be established. (Dkt. 19.)

12 On October 17, 2013, plaintiff's counsel filed a motion seeking to withdraw from the  
13 case. (Dkt. 20.) Counsel explained therein that the case was not longer economically viable  
14 because of the withdrawal from the case of plaintiff's medical expert who had been  
15 catastrophically injured in a car accident earlier this year. (*Id.*) Counsel indicated that they  
16 had served a copy of their motion to withdraw on plaintiff and that plaintiff had been advised  
17 that her failure to prosecute her claims could result in dismissal of this case. (*Id.*) The motion  
18 to withdraw was noted on the Court's calendar for consideration on November 1, 2013. (*Id.*)

19 Plaintiff has filed no response to counsel's motion to withdraw nor has she indicated in  
20 any fashion that she intends to proceed with this action. Accordingly, this Court recommends  
21 that counsel's motion to withdraw be granted and that plaintiff's complaint, and this action, be  
22 dismissed at this time for failure to prosecute. This dismissal should be without prejudice to

01 plaintiff re-filing the action at a later date so long as any such filing precedes expiration of the  
02 applicable statute of limitations. A proposed Order accompanies this Report and  
03 Recommendation.

04 DATED this 20th day of November, 2013.

05  
06 

07 Mary Alice Theiler  
08 Chief United States Magistrate Judge  
09  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22